REMARKS

Favorable reconsideration of this application is respectfully requested.

By this Amendment, various claims have been amended, claims 66, 67 and 71 have been canceled and new claims 110-121 have been added. Upon entry of this Amendment, claims 54-65, 69-70, and 72-121 will be pending in this application.

Interview Summary

Applicants' representative, Brian Siritzky, conducted a personal interview with the Examiner in this case on May 27, 2004. Applicants thank the Examiner for the abundant courtesies extended their representative, Brian Siritzky, during the personal interview and various related telephone discussions.

During the interview applicants' representative explained the invention to the Examiner and discussed and distinguished the prior art of record, in particular, Nelson (U.S. Patent No. 5,452,447) and Hamilton (U.S. Patent No. 5,640,564).

Applicant proposed incorporating into the current independent claims (to the extent that they do not already have one of these features) either the licensing features of the invention (e.g., as recited in claims 66 or 67) or some of the features relating to measures of availability (e.g., as recited in claims 60 or 61). The claims have been amended accordingly.

In the interview the Examiner requested that applicants show support in the specification for the licensing aspects of the claims. During the interview applicants' representative directed the Examiner, *inter alia,* to pages 62-63 of the specification, to the section titled "Track for Licensing Purposes." In that section one possible way of using the invention to track data for licensing purposes is described. Note that the present application describes a number of so-called mechanisms which can be used together to build a system. The "Track for Licensing Purposes" mechanism is what the patent application refers to as a an extended mechanism ("Extended mechanisms run within application programs over the operating system. These

mechanisms provide solutions to specific problems and applications." P12L29-31) The Examiner is also directed to the description of the license table on pg. 15, lines 20-23 and pg. 18, line 18 to pg. 19, line 3. Applicants give these references as examples only, and they are not intended to in any way limit the scope of the claimed invention.

Comments on Amendments to Specification

As requested by the Examiner, the specification has been amended to provide the serial numbers and corresponding statuses of all patent applications referred to on page 1 thereof.

Additionally, when formal drawings were prepared for this application, Figures 1, 16-19, 26 and 27, originally each on one page, had each to be split over two pages. The specification has been amended to change the numbering of the figures accordingly. Submitted herewith is a *Drawing Change Authorization Request* to reflect the modifications to the drawings' numbering.

As further requested by the Examiner, the title and abstract of the disclosure have been amended.

The Double Patenting Rejection

The Examiner has rejected claims 54-109 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-55 of co-owned U.S. Patent No. 6,415,280. While applicants respectfully disagree with the Examiner, applicants will file a Terminal Disclaimer, if still requested by the Examiner, when the claims are otherwise in condition for allowance.

The Prior Art Rejections

The Examiner rejected claims 54, 56-58, 62-64, 66-94 and 96-109 under 35 U.S.C. § 103(a) as being unpatentable over Nelson (U.S. Pat. No. 5,452,447) in view of Hamilton (U.S. Pat. No. 5,640,564). Claims 55, 59-61, 65 and 95 were rejected under

35 U.S.C. § 103(a) as being unpatentable over Nelson in view of Hamilton and further in view of Deutsch. The grounds for these rejections are respectfully traversed.

The Examiner's position is that "Nelson discloses the use of a hash function on a data file to thereby quickly retrieve a copy of the file from the cache." *Paper No. 12*, pg. 5. As noted below, the present claims of this application recite that a name for a data identifier is context sensitive, i.e., is based, at least in part, on the content of the data or files that it is naming. That is, as presently claimed, the "obtained" or "determined" name for a file is based, at least in part, on the data in the file.

Claims 54-101 and 110-120 are method claims. Claims 102-106 recite computer-readable media tangibly embodying program instructions. Claims 107-109 recite a computer system. Various of the claims recite, *inter alia*, the use of names for data items that were determined by applying a certain function, e.g., an MD5 hash, to the contents of a data item. Note that some of the claims recite "determining" the name (e.g., claim 59), whereas other claims, e.g., claim 54, recite "obtaining" such a name.

Claims 54, 55, 56, 59, 63, 68, 69, 100, 101, 110, recite using the determined (or obtained) name for a file to provide a copy of a requested file only to licensed (or authorized) parties (or that the requested file is not provided to unlicensed or to unauthorized parties). Claim 102 recites computer-readable media tangibly embodying a program of instructions. The program comprises code, *inter alia,* to provide a copy of a data file "only . . . to licensed parties."

None of the prior art, either alone or in any proposed combination, teaches or in any way suggests the presently claimed invention of providing a copy of a requested file only to licensed (or authorized) parties (or not providing a file to unlicensed or unauthorized parties). Furthermore, none of the cited art, alone or in any proposed combination, fails to teach or in any way suggest using the name of a file (a name that was determined as a function of the contents of the file) in order to enforce any licensing (or authorization) policies.

Claims 75-82 recite, *inter alia,* causing a copy of a file to be provided from a computer having a licensed copy of the file.

None of the prior art, alone or in any proposed combination, teaches or in any way suggests providing a copy of a file from a computer having a licensed or authorized copy of the file. Nelson never checks to determine whether a requested file – the one a client is trying to access – is an licensed or authorized copy of the file. In fact, to the contrary, if Nelson's system works as described, no un-authorized copies of files could exist in the system. C18L44-46. The present invention contemplates (and operates in) a potentially insecure environment (such as, e.g. the Internet or a peer-to-peer file-sharing network or the like) in which files are distributed and shared, perhaps without regard for rights, licenses and authorizations.

Claims 70, 72, 73, 111-117, 118, 119 and 120 recite, *inter alia*, determining whether a copy of a file that is present on a computer is an unlicensed (or licensed) or unauthorized (or authorized) copy of that file. Claim 103 recites computer-readable media tangibly embodying a program of instructions. The program comprises code, *inter alia,* to "determine . . . whether an unauthorized or unlicensed copy" of a file is present on a computer. Claims 104-105 recite computer-readable media tangibly embodying a program of instructions. The program comprises code, *inter alia,* to determine whether unauthorized or unlicensed (or authorized or licensed) copies of files are present on a computer. Claims 107-109 recite a computer system programmed, *inter alia,* to determine whether unauthorized or unlicensed copies of some files are present on a particular computer. Claims 74, 83-91, 92-94, 95, 98, 99 recite, *inter alia*, determining whether a licensed or authorized (or unlicensed or unauthorized) copy (or copies) of a file is (are) present on a computer (or computers).

None of the prior art, alone or in any proposed combination, teaches or in any way suggests the claimed determining whether a copy of a file on a computer is an unlicensed or an unauthorized copy of that file. There is nothing in either Nelson or Hamilton or any of the other prior art to teach or in any way suggest using the name to determine whether a (un)licensed or (un)authorized copy of a file is present on any computer (or anywhere in the system).

Claims 57, 58, 60, 61, 62, 64, 65, 96, and 97 recite, *inter alia*, resolving requests for files based, at least in part, on a measure of availability of a computer.

The Examiner rejected claim 60 (which then recited "wherein the request for the particular file is resolved based, at least in part, on a measure of availability of at least one of the computers") as being obvious over Nelson in view of Hamilton and further in view of Deutsch. There is, however, nothing in any of these references (nor in any of the other prior art) to teach or in any way suggest resolving a request of any kind for any file or data item or object based on a measure of availability of a computer. In each of the cited systems, requested objects are either provided or not. But there is nothing in any of their teachings about resolving requests based on any measures of anything at all. Further, in Nelson, the user decides where to make the request (i.e., which cache to request from), so no type of resolution is needed – no choice of processor or cache or computer need be made. In Nelson, either the requested item is in the cache or not.

In the embodiment of claim 60, e.g., files are distributed across a network of computers. When a request for a file is made, that request may possibly be satisfied by more than one of the computers. Therefore, as recited in claim 60, requests for particular files may be resolved based, in part, on a measure of availability of one or more of the computers.

Similar arguments apply to claims 57, 58, 61, 62, 64, 65, 96, and 97.

Claim 61 recites that the measure of availability for a computer is based on at least one of the measurements selected from: (a) a measurement of bandwidth to the computer; (b) a measurement of a cost of a connection to the computer, and (c) a measurement of reliability of a connection to the computer. As agreed upon at the personal interview, this claim does not require one each of (a), (b), and (c), but is satisfied by any one (or more) of (a), (b) and (c). Similarly for claim 96. In general, as used in the claims of this application, the term "at least one of A, B and C" means one or more of A, B or C, but does not require one of A and one of B and one of C.

Further as to claim 61, there is nothing in any of the cited art to teach or in any way suggest resolving a request based on any of the claimed measures – (a) bandwidth to the computer, (b) cost of a connection to the computer, or (c) reliability of a connection to the computer.

In view of the above, withdrawal of the rejections under § 103 are respectfully requested.

Conclusion

In view of the foregoing amendments and the following remarks, allowance of this case is earnestly solicited.

The Examiner is invited to telephone the undersigned should he believe that a telephone conference would resolve any outstanding issues in this application.

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Respectfully submitted,

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